

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: BAIR HUGGER FORCED AIR  
WARMING DEVICES PRODUCTS  
LIABILITY LITIGATION

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MDL No. 15-2666 (JNE/DTS)

THIS DOCUMENT RELATES TO:  
17-cv-00199 (*Taylor v. 3M Co., et al.*)

**DECLARATION OF DANIEL C. BURKE IN SUPPORT OF  
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Daniel C. Burke, declare as follows:

1. I am an attorney at Bernstein Liebhard LLP, counsel of record for Plaintiff Patricia Taylor in the above-captioned matter.
2. I submit this declaration in opposition to Defendants' Motion to Dismiss for Failure to Comply with the Pretrial Order No. 23 and/or Fed. R. Civ. P. 25(a) and 41(b) [Dkt. 1740] filed on February 7, 2019.
3. Mrs. Taylor contacted Bernstein Liebhard LLP in February 2016 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Bernstein Liebhard LLP obtained medical records and billing records pertaining to Mrs. Taylor's treatment through its third-party medical records retrieval company. Those records indicated that a Bair Hugger device was used during her initial orthopedic surgery.

5. This case was filed on January 23, 2017 to comply with a possible statute of limitations deadline identified by counsel.
6. A complete PFS was submitted to the Court on April 21, 2017. Defendants did not issue any further Deficiency Notices regarding this PFS.
7. On February 5, 2019, counsel received an email from Defendants stating that Mrs. Taylor had passed away on December 31, 2017. Counsel was not aware of Mrs. Taylor's passing prior to the receipt of this email.
8. Counsel made immediate efforts to contact Plaintiff's next of kin after receiving this email from Defendants and spoke to Plaintiff's husband.
9. Plaintiff's husband represented to counsel that he will complete the appropriate probate process to continue Plaintiff's case.

Pursuant to 28 U.S.C. § 1746(2), I declare under the penalty of perjury that the foregoing is true and correct.

DATED: February 21, 2019

/s/ Daniel C. Burke

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